



MEMORANDUM

To : Vice Provosts, Deans and Department Chairs

From : James L. Jarvis, Jr., Assistant Vice President, Human Resources
Oscar A. Budde, Esq., Director, UB Immigration Services

Date : November 12, 2008

Subject : Special Handling Procedures for International Teaching Faculty

ANNOUNCEMENT REGARDING SPECIAL HANDLING PROCEDURES FOR INTERNATIONAL TEACHING FACULTY

International teaching faculty who have undergone a competitive recruitment and selection process may be eligible to file for permanent residency pursuant to the Special Handling provisions of the U.S. Department of Labor (“DOL”). The Special Handling pathway to permanent residency is the most frequently used and most reliable one for international teaching faculty at UB. DOL requires that the recruitment for the position must have included at least one advertisement placed in a professional **print** journal of national circulation appropriate for the particular discipline and likely to produce qualified applicants. The advertisement must contain the name of the UB employment unit, position title, job duties – specifically listing teaching duties – and minimum job requirements. DOL also requires that the ad refer applicants to the UB employing unit with appropriate contact information.

Some employment units at UB have recently moved entirely to online/electronic job advertising to recruit teaching faculty. While this is appropriate and sufficient for searches that do **not** recruit qualified candidates who are foreign nationals, any search likely to produce qualified applicants who are foreign nationals eligible for the Special Handling provisions **must** include appropriate print advertising in a professional journal of national circulation. In the past, this requirement was typically met through print advertising in the Affirmative Action Register (AAR); however, UB job advertising in the AAR is now done entirely online and thus does not serve to fulfill the DOL requirement. Because every search has the potential to produce qualified foreign

nationals, it is **required** that for all full time tenure-track teaching faculty positions at least one advertisement in print be placed in a professional journal of national circulation. Failure to do so could result in a foreign national faculty hire being ineligible to apply for permanent residency under the Special Handling/Labor Certification provisions.

Although DOL has been asked on numerous occasions to substitute the print advertisement requirement with the more efficient and less costly method of online advertising, DOL has expressly rejected such a change. Efforts by many organizations continue to bring DOL's requirements in line with real-world recruitment practices. Until such time as DOL updates its advertisement requirements, UB employment units must continue to observe recruitment practices utilizing the prescribed print advertisement.

Employing units should keep in mind that in addition to the above-noted print advertisement requirement applicable in the immigration context, DOL also monitors the employer's compliance with a host of other regulations that pertain to the hiring of international teaching faculty who may be eligible for the Special Handling provisions pursuant to permanent residency petitions. In particular, we advise employing units to take the following guidance into account:

1. The employee must meet the minimum qualifications for the job opportunity at the time that he or she is selected. Thus, the letter of offer can only be issued after the selected candidate meets all of the minimum job requirements, including degree requirement (e.g., ABD, Ph.D., terminal degree, etc.).
2. All advertisements and postings must contain identical language.
3. On UBJobs the position should be listed as being open until a specific date and with the following notation "...or until filled."
4. DOL considers preferred qualifications to be the equivalent of minimum qualifications.

For further information, please refer to the University Human Resources and UB Immigration Services websites, which can be found at <http://hr.buffalo.edu/> and <http://wings.buffalo.edu/intlservices/pr.html>, respectively.

If you should have any questions, do not hesitate to contact us at either (716) 645-5000 (HR) or (716) 645-2355/(716) 645-5550 (UBIS).

cc: Provost Satish Tripathi
Dr. Stephen Dunnett